

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

United States of America

vs.

Criminal No.05-10053-NMG

Tyrone Battle

**Affidavit in Support of Defendant's Motion for Continuance of the  
Sentencing Hearing**

1. The defendant's Criminal History Category has been determined to be VI in the Presentence Report, based in part on a conviction in the Dorchester District Court, case number 9907CR0236, which has been scored at two points. Without the conviction, the defendant's criminal history score would be 11, and his Criminal History Category would be V.
2. In May 2006 I filed a motion for new trial in the Dorchester District Court based on ineffective assistance of counsel. The matter was originally set for hearing on June 29, 2006. Over the defendant's objection, the Commonwealth was granted a continuance to July 13, 2006. After argument, the court (Hanlon, J.) took the motion under advisement. I informed the court that I needed the decision by July 21, 2006, so that I could have it for the sentencing hearing before this Court. Judge Hanlon pointed out that she was going on vacation for the week of the July 17, 2006 and would therefore rule on the motion by July 14, 2006.
3. On July 19, 2006, I went to the Dorchester District Court to obtain the judge's decision and order. I was informed that the decision had not been filed and could not be located, and that the judge was on vacation until July 24, 2006.

4. Additionally, to aid in sentencing I retained Dr. Eric Mart, a forensic psychologist, to interview the defendant. Due in part to difficulty in with getting permission to interview Mr. Battle at the Plymouth County Correctional Facility, Dr. Mart was not able to begin the interview until July 18, 2006. He has telephoned my office to give his preliminary findings, but will not be able to conclude his interview until Monday July 24, 2006.
5. I am presently scheduled for a jury trial on July 24, 2006 in the Gardner District Court in Commonwealth v. Martins, 0663CR0308, and a jury trial on July 27, 2006 in the Boston Municipal Court in Commonwealth v. Sparks, 0507CR4067.
6. The Probation Officer was unable to reach the defendant's grandmother, Clyde Ann Nelson, for a home visit. I am attempting to coordinate this visit, as I believe that Ms. Nelson will provide useful information on the defendant's background.
7. We are also seeking counseling records from defendant's youth. Defendant's grandmother recently provided the name of the agency where Mr. Battle was seen, and my office has been trying to obtain the records.

Signed under the pains and penalties of perjury this 20<sup>th</sup> day of July 2006.

/s/ MARK W. SHEA

Mark W. Shea, Esq.

**Certificate of Service**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on July 20, 2006.

/s/ Mark W. Shea

MARK W. SHEA